

## Message Text

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ACTION ARA-10

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC 4535

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E.O. 11652: N/A

TAGS: BDIS,EIND,EFIN,PE

SUBJECT: CERRO NEGOTIATIONS WITH GOP COMMISSION

REFS: LIMA 2381, STATE 062125

1. NICOLAS DE PIEROLA BALTA, PERUVIAN LAWYER REPRESENTING CERRO INTERESTS, CALLED ON EMBASSY MARCH 31 TO INFORM US THAT GOP COMMITTEE, COMPRISING REPRESENTATIVES FROM MINPECO, CENTROMIN, AND MINISTRY OF COMMERCE, HAD REACHED FUNDAMENTAL AGREEMENT ON SEVERAL OUTSTANDING ISSUES WITH PENNOCK AND RIDGWAY DURING MEETINGS MARCH 21-27. KEY ISSUES RESOLVED WERE THE REINSTATEMENT OF CERTAIN SALES CONTRACTS BETWEEN MINPECO AND CERRO SALES (WORTH ABOUT \$2.5 MILLION TO CERRO) AND CERRO SALES AGREEMENT TO PAY MINPECO SOME \$5 MILLION IN PROCEEDS DERIVING FROM PREVIOUS SALES WHICH CERRO SALES HAS BEEN WITHHOLDING. FURTHER POINT OF ACCORD CONCERNS CERRO SALES AGREEMENT TO TERMINATE THE CONTINGENCY OF FORCE MAJEURE WITH RESPECT TO CERRO SALES ZINC CONCENTRATES WITH TWO JAPANESE MINING COMPANIES AND TO RECOMMENCE SHIPMENTS TO BE EXPORTED TO THESE COMAPNIES.

2. PIEROLA SAID THAT TWO POINTS REMAIN TO BE RESOLVED. FIRST, THE GOP COMMISSION INSISTED THAT CERRO SALES

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AGREE TO CERTAIN COMMISSION RATES WHICH WOULD ENTAIL

THE LOSS OF SOME \$27,000 TO CERRO. REGARDING THIS ISSUE, PIEROLA SAID THAT THE GOP COMMISSION HAD MADE REFERENCE TO THE GREENE AGREEMENT AND TO THE FACT THAT ALL PROCEEDS DUE TO CERRO SALES HAD BEEN SETTLED BY THE GREENE AGREEMENT. PIEROLA EXPRESSED VIEW THAT THIS ISSUE COULD BE RESOLVED WITHOUT MUCH DIFFICULTY BY CERRO NEW YORK MANAGEMENT, SINCE AMOUNT OF MONEY INVOLVED IS RELATIVELY INSIGNIFICANT. SECOND, CERRO REPRESENTATIVES HAD SUGGESTED TO GOP COMMISSION THAT GOP AGREE TO OPENING A LETTER OF CREDIT ARRANGEMENT IN FAVOR OF CERRO SALES WHICH WOULD, IN EFFECT, GUARANTEE THAT MINPECO WOULD LIVE UP TO ITS OBLIGATIONS. GOP COMMISSION FLATLY REFUSED, NOTING THAT NO SUCH GUARANTEES HAVE BEEN MADE IN CASE OF OTHER, LARGER VENTURES, SUCH AS \$600 MILLION CUAJONE PROJECT. IN LIEU OF LETTER OF CREDIT ARRANGEMENT, GOP COMMISSION OFFERED TO INCLUDE ARBITRATION CLAUSES IN AGREEMENT WHICH WOULD PROVIDE FOR SELECTION OF ARBITERS IN ACCORD WITH REGULATIONS OF PARIS CHAMBER OF COMMERCE AND UNDER SWISS LAW ON SWISS TERRITORY. GOP NOTED THAT SUCH CLAUSES ARE CONTAINED IN VARIOUS INTERNATIONAL COMMERCIAL AGREEMENTS GOP HAS WITH OTHER COUNTRIES. PIEROLA, WHILE ADMITTING HE COULD NOT SPEAK FOR CERRO MANAGEMENT, SAID HE THOUGHT IT LIKELY THAT CERRO WOULD ALSO ACCEPT THESE CONDITIONS, ALTHOUGH HE COULD NOT BE CERTAIN.

3. PIEROLA NOTED THAT GOP REPRESENTATIVES WERE CORDIAL AND BUSINESSLIKE THROUGHOUT DISCUSSIONS, BUT THEY STRESSED THAT SHOULD NO AGREEMENT BE FORTHCOMING ON GUARANTY VS. ARBITRATION ISSUE, NEGOTIATIONS WOULD BE AT AN END.

4. RIDGWAY AND PENNOCK RETURNED TO NEW YORK MARCH 27 AND WILL PROBABLY RETURN EARLY NEXT WEEK TO INFORM GOP OF CERRO'S RESPONSE TO TWO OUTSTANDING ISSUES.

5. COMMENT: WE ARE ENCOURAGED BY PROGRESS WHICH HAS APPARENTLY BEEN MADE AND BY NON-POLEMICAL ATMOSPHERE WHICH APPEAR TO HAVE CHARACTERIZED DISCUSSIONS. WE HOPE CERRO CAN AGREE TO ARBITRATION CLAUSE SINCE IN OUR VIEW THIS WOULD PROVIDE ADEQUATE GUARANTEE OF LIMITED OFFICIAL USE

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PERFORMANCE. PIEROLA IS UNAWARE OF ANY INSTANCE IN WHICH GOP HAS AGREED TO WHAT CERRO IS DEMANDING. ON THE OTHER HAND, ARBITRATION CLAUSES ARE INCLUDED IN SEVERAL OTHER MAJOR AGREEMENTS WHICH GOP HAS NEGOTIATED. GOP IS PRESUMABLY WELL AWARE THAT ANY DISPOSITION ON ITS PART NOT TO ACCEPT AN ARBITERS RULING WOULD HARM ITS CREDIBILITY IN OTHER AREAS, WHICH WE ARE SURE GOP WOULD WANT TO AVOID.

6. EMBASSY ISPOUCHING ENGLISH LANGUAGE COPY OF  
CERRO-GOP MINUTES OF MEETINGS TO ARA/LA/EP.  
DEAN

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